



**COMMONWEALTH of VIRGINIA**  
**Office of the Attorney General**

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**MEMORANDUM**

**TO: BRIAN MCCORMICK**  
Regulatory Supervisor  
Department of Medical Assistance Services

**FROM: JENNIFER L. GOBBLE**  
Special Counsel to DMAS

**DATE: January 29, 2010**

**SUBJECT: Fast Track Regulation to Amend the Process for Verification of Citizenship and Identity**

I am in receipt of the attached fast-track regulation relating to verification of citizenship and identity for Medicaid. The regulation purports to adopt an option offered to states under the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) providing an alternative process for verification of citizenship and identity. You have asked the Office of the Attorney General to review and determine if the Department of Medical Assistance Services ("DMAS") has the legal authority to promulgate the regulation and if the regulation comports with state and federal law.

Based on that review, it is my view that the Director, acting on behalf of the Board of Medical Assistance Services pursuant to Va. Code §§ 32.1-324 and 325, has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority.

This regulation will permit the Commonwealth to enter into a data match program with the Social Security Administration to verify the citizenship and identity of Medicaid applicants and recipients, allowing for a more seamless application process for most applicants and recipients. However, if an objection to the use of the fast-track process is received within the public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, DMAS shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process set out in Article 2

of the Administrative Process Act with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you have any questions or need additional information about these regulations, please contact me at 786-4905.

cc: Kim F. Piner  
Chief/Senior Assistant Attorney General

Attachment